

AG LABOR REVIEW

Seeking to keep bad times from becoming worse



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The 2017 season continues to see tightening labor supply and increased enforcement efforts, all putting additional pressure on every one of you who are engaged in labor-intensive segments of agriculture. NCAE represents you in the largest and most cohesive agricultural coalition most of us have known, the Agricultural Workforce Coalition (AWC). We expect to face legislative proposals requiring mandatory E-Verify from Congress between now and the fall.

The president's budget proposal appears to assume there will be mandatory E-Verify based on Department of Homeland Security funding items. As a reminder, E-Verify is an internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility; to learn more visit www.uscis.gov/e-verify.

We must be prepared to oppose mandatory E-Verify legislation as part of the

large agricultural coalition unless it is coupled with meaningful agricultural provisions that stabilize the current agricultural workforce. Agriculture as we know it would not survive mandatory E-Verify without provisions to stabilize our current workforce so we could continue to legally employ them, regulatory and implementation improvements to the current H-2A program and legislation to reliably and predictably supply sustainable numbers of visa workers for the future.

To put it bluntly, because we know half or more of our current domestic workforce are falsely documented, mandatory E-Verify without significant agricultural provisions to provide a legal workforce would put many of our producers out of business very quickly.

We know it is frustrating to all of you that we have not been able to get Congress to pass meaningful immigration legislation to "fix" the agricultural workforce issue. In fact, positive legislation to fully address our needs seems increasingly remote in the atmosphere of the current Congress. The House Judiciary still says that they intend to introduce a reworked version of HR1773 this summer or fall and, as of this writing, they have scheduled a hearing on agricultural workforce issues. They do have draft language in the Judiciary Immigration Subcommittee, but we do not know if there is yet a realistic timeline

under which it could be completed.

If you recall three years ago when HR1773 was proposed in 2013 agriculture did not support it because, among other concerns, it did not make provision for our current workforce, it ended H-2A and the temporary visa program proposed to replace H-2A was capped at a number that would not come near replacing our lost current workers and the current H-2A numbers.

I have written about the AWC in the past. The AWC includes all of the largest agricultural associations with presence in Washington, D.C. and continue to work together to assure that anything that does come out of Congress will be fully informed by your needs as American fruit and/or vegetable producers. We are currently engaged with the Judiciary Committee to see if there can be agreement on helpful legislation, this year, to improve the workforce availability, predictability, and reliability issue. It is important to remember that even if something acceptable should emerge in the House committee before the end of 2017, it will be a long road to full House, much less Senate approval.

What this all means is that our work this year, the balance of 2017 and possibly all of 2018, because of mid-term elections is very likely going to have to focus on stopping bad legislation and regulation, and holding

Congress and regulators' feet to the fire to make the programs we currently need work better. This is the least glamorous, most thankless and hardest-to-appreciate work that you and your associations must do to stay alive. It means that we will probably not see opportunity to pursue new and improved legislation.

This does not mean we can go into a holding pattern, take a break, let down our guard, or our funding. It does mean that our strategy and tactics must focus on preventing harm while continuing to build our case for long-term legislative and regulatory relief. This is the hardest kind of work your associations do for you, and the hardest for you to appreciate the value for; but it is extremely important and valuable work nonetheless.

Preventing or mitigating added harm is just as difficult and resource-intensive as passing positive legislation and regulation. Your associations, attorneys and government affairs professionals and contractors truly need your help and support to defend and protect the interests of labor intensive agriculture now, and in the future. Please stay in the fight even if we do not anticipate the flashy prospects of new legislation. We are here to do what is necessary to maintain your ability to remain in competition. VGN